

## Specific Discussion Points and Crosswalk based on the June/July Strawman Drafts

1. Appointment, terms of office, location of the Water Court
  - a. 3-7-101(4)(a) comments on where are the judges located and where is the water court administrator located?
  - b. 3-7-201- designation pursuant to -221
  - c. 3-7-202 sub-WG edits: 4 years. To continue another term, each judge is subject to a successful retention election by the water division electorate.
  - d. 3-7-221 (2)(b-c) sub-WG edits:
    - Pre and post final decree. Montana supreme court appoints.
    - (b) In order to exercise their duties in section 3-7-101, the Chief Justice shall designate which Water Divisions each water judge is assigned.
    - (c) A Water judges need not be a resident of the Water Division of which the judge is appointed, at the time of appointment, but after appointment, the judge must reside in the Water Division for which the judge is appointed during the judges' term of office.
2. Duties and jurisdiction of the Water Court/judges
  - a. 3-7-101: Duties of water division judges pre and Post FD
  - b. 3-7-223: Duties of chief water judge
  - c. 3-7-224: Jurisdiction of chief water judge and associate water judge
  - d. 3-7-225: Duties of associate water judge
  - e. 3-7-501: Water Court Jurisdiction
  - f. 3-7-502: Jurisdictional disputes
3. Disqualification, substitution of Water Judges-
  - a. 3-7-224 Jurisdiction & 3-7-225 duties
  - b. 3-7-402 disqualification, 3-7-403 waiver of disqualification, 3-7-404, Procedure exclusive
4. Water Masters
  - a. 3-7-311 & 3-7-301 comments made in document, WG discussion
5. Commissioners: appointment, supervision, petition, users
  - a. Water division court or district court.
  - b. 3-7-101(2)(h)- duties
  - c. 3-7-211 Petition for a water commissioner
    - i. petition the water division court, and if petition requests to have the district court appoint and supervise a water commissioner; the water judge may transfer the petition to the applicable district court.
    - ii. petition the district court, and if petition requests to have the water court appoint and supervise a water commissioner; the district judge may transfer the petition to the applicable water division court
  - d. 85-5-101, 102, 111, 301

	<b>Title</b>	<b>General Description</b>	<b>WG discussion points</b>
new	Definitions		
3-7-101	Water Division Courts	Duties of water division judges pre and Post FD	
3-7-102	Water Division Boundaries		
3-7-103	Promulgation of rules and prescription of forms -- advisory committee	rules and WACC	
3-7-201	Designation of water division judges	Designation, where they preside	
3-7-202	Terms of office	4 years. To continue another term, each judge is subject to a successful retention election	New/edited
3-7-203	Vacancies	If a vacancy in the office of water judge occurs, it must be filled in the manner provided in 3-7-201	
3-7-204	Supervision and administration by supreme court	3-7-204 and 3-7-222 were combined- Supervision, pay, clerk of court	Needs review
3-7-211	Appointment of water commissioners	Appointment of water commissioners; petitions and transfers	WG discussion
3-7-212	Enforcement of decrees	Water Division Court enforce the provisions of a final decree	
3-7-221	Appointment of water judges -- terms of office	Pre and post final decree. Montana supreme court appoints. Where they reside.	New/edited
3-7-222	Salary -- office space	Combined with 3-7-204	

	<b>Title</b>	<b>General Description</b>	<b>WG discussion points</b>
3-7-223	Duties of chief water judge	To provide for the efficient management of the water divisions court... rest moved to 3-7-101	New/edited
3-7-224	Jurisdiction of chief water judge and associate water judge	Jurisdiction of the existing CWJ and AWJ	New/edited
3-7-225	Duties of associate water judge	-225 is deleted because of the way -221 and -223 were revised to contemplate appointment of water judges	New/edited
3-7-301	Water masters		New/edited
3-7-311	Duties of water masters		New/edited
3-7-401	Definitions		
3-7-402	Disqualification of water judge or master	If we update 3-1-101 to include “water court” (which it should), this entire section can be terminated because water judges would then be subject to the same rules for disqualification as all other judges. Ref 3-1-803 to 805.	Needs editing
3-7-403	Waiver of Disqualification		WG comments made, not addressed
3-7-404	Procedure exclusive		WG comments made, not addressed
3-7-501	Water Court Jurisdiction.		WG comments made, not addressed
3-7-502	Jurisdictional disputes	shall be settled by the water judges involved	
	<b>Title</b>	<b>General Description</b>	<b>WG discussion points</b>

85-2-112	Department Duties		WG- not deal with currently?
85-2-114	Judicial enforcement		WG- not deal with currently?
85-2-122	Penalties		WG- not deal with currently?
85-2-123	Deposit of fees and penalties		WG- not deal with currently?
85-2-125.	Recovery of costs and attorney fees by prevailing party.		WG- not deal with currently?
85-2-309	Hearings on objections - jurisdiction		WG- not deal with currently?
85-2-404	Abandonment of an appropriated Water right		WG- not deal with currently?
85-2-405	Procedure for declaring appropriations abandoned		New/edited
85-2-406	Supervision of water distribution	Supervise the distribution, controversies, filing of controversies	New/edited
85-5-101	Appointment of water commissioners	changes to water division court	WG discussion
85-5-102	Appointment of chief commissioner	changes to water division court	WG discussion
85-5-102 to 110		change from district court to water division court, no WG comments	
	<b>Title</b>	<b>General Description</b>	<b>WG discussion points</b>

85-5-111	Water commissioner and mediator education		WG discussion
85-5-201 to 206		change from district court to water division court, no WG comments	
85-5-301	Complaint by dissatisfied user		WG discussion
85-2-302 to 408		minor changes, few comments	
2-4-702	Initiating judicial review of contested cases.		WG comments made, not addressed